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CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,377

Applicant(s)

FERMAN ET AL

Examiner

Annan Q. Shang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-38 and 40-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 2-38 and 40-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/07/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 40 is objected to because of the following informalities: Claim 40 depends on a cancelled independent claim 39. A claim cannot depend on a cancelled dependent or independent claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 2-5 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by **Alexander et al. (6,177,931)**.

As to claim 2, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses a usage history description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed “the usage history description scheme containing information about a user...” is met by Viewer’s Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer’s profile “usage history description scheme” contains information about a user with respect to at least one of audio, image and video, based upon the viewer’s interaction “previous usage” of the at least one of the audio, image, and video and the profile information includes at least one description type defined by, at least in part, a thesaurus (col. 29, lines 14-55), note that the viewer’s profile information is data collected concerning, and surrounding, viewer’s interactions with the television, EPG (recording and watching functions), Internet, WWW, and any other sources of information and is sent to the Headend of the television distribution for analysis, customizing of the television program, by themes (col. 30, line 45-col. 31, line 8 and lines 25-61);

Alexander further discloses where the information is readable by at least two graphical user interfaces (fig. 1 and col.8, lines 53-col.9, line 21), note that Display 10 is an Internet enable-TV, which displays EPG data and TV program in one display mode and Internet data AD window 1-2 in another display mode, note further that AD window 1-2 is a GUI with interactive icon (i) for retrieving Internet related data (col.13, lines 37-67)

As to claims 3-5, Alexander further discloses where the profile describes information of the viewer with respect to audio, image and video (col. 12, lines 30-43, col. 28, lines 46-52, col. 29, lines 30-55, col. 31, lines 34-46 and col. 34, lines 10-25).

Claim 41 is met as previously discussed with respect to claim 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-10 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6,177,931)** in view of **Del Sesto et al. (6,530,082)**.

As to claims 6-7, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses a description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed "description scheme containing information about a user..." is met by Viewer's Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer's profile "description scheme" contains information about a user with respect to at least one of audio, image and video based upon interaction "previous usage" of the at least one of the audio, image, and video and the profile information includes at least one type characterized by, at least in part, a time associated with the at least audio, image and video (col. 29, lines 50-55 and col. 30, line 59-col. 31, line 8), note that the viewer's profile information is data collected concerning, and surrounding, viewer's interaction with the television, EPG (recording and watching functions), Internet, WWW, and any

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other sources of information and is sent to the Headend of the television distribution for analysis, customizing of the television program, by themes (col. 31, line 25-col. 32, line 6).

Alexander teaches preferences or profiles based on media time (col.14, line 48-col.15, line 3 and col.28, line 13-col.29, line 1+), but fails to explicitly teach the description scheme is expressed in coordinated universal time (UTC).

However, note the **Del Sesto** reference teaches monitoring of viewership and usage of interactive applications using UTC time or subscriber's local time for Broadcast Receiver's (BR) 120 (col. 9, lines 6-40).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Del Sesto into the system of Alexander to provide a UTC time and synchronize the clocks to using a standard time-base and allow the system to operate independent of the relative positions of the receivers and transmitters without the need to synchronize receivers and transmitters.

Claims 8-10 are met as previously discussed with respect to claims 3-5.

Claim 42 is met as previously discussed with respect to claim 6.

6. Claims 11-16, 19-23, 34-38, 43-44 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al. (6,177,931)** in view of **Schnase et al (6,078,928)**.

As to claim 11, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of

information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses system including a usage history description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed "the usage history description scheme containing information about a user..." is met by Viewer's Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer's profile "usage history description scheme" contains information about a user with respect to at least one of audio, image and video based upon interaction "previous usage" of the at least one of the audio, image, and video; where themes, such as, sports, news, movie, sitcom, etc., "content descriptions" (col. 29, lines 14-67) other source of information, such as buying a particular appliance, car, etc., (col. 30, 1-37) referenced by the profile and the system including referencing functionality permitting the profile to customizes "reference selected portions" of sports, news, movies, sitcom, etc., such as particular type of sports, news, movies, etc.

Alexander fails to explicitly teach where the usage history description scheme is stored on a mobile storage device selectively insertable into a multimedia system.

However, note the **Schnase** reference figures 1 and 6-8, discloses site-specific interest profiling system where usage history description scheme is stored on a smartcard selectively insertable into a multimedia system.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Schnase into the system of Alexander to

provide a portable storage device such as a smartcard containing usage data or user's profile, and which provides privacy to users and also programming flexibility.

As to claim 12, Alexander further discloses where the selected portion is to a segment of video that the user reviews in slow motion (col. 15, lines 9-21 and col. 22, lines 10-18).

As to claims 13 and 14, Alexander further discloses where the selected portion is a hyperlink and a web site (col. 28, line 60-col. 29, line 55).

As to claim 15, Alexander further discloses where the selected portion is an EPG (col. 28, line 60-col. 29, line 55).

As to claim 16, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses system including a usage history description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed "the usage history description scheme containing information about a user..." is met by Viewer's Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer's profile "usage history description scheme" contains information about a user with respect to at least one of audio, image and video based upon interaction "previous usage" of the at least one of the audio, image, and video; where the system captures content for the profiles such as themes: sports, news, movie, sitcom, etc.,

“selectable level of detail” (col. 29, lines 14-67) and other source of information, such as buying a particular appliance, car, etc., (col. 30, 1-37).

Alexander fails to explicitly teach where the usage history description scheme is stored on a mobile storage device selectively insertable into a multimedia system.

However, note the **Schnase** reference figures 1 and 6-8, discloses site-specific interest profiling system where usage history description scheme is stored on a smartcard selectively insertable into a multimedia system.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Schnase into the system of Alexander to provide a portable storage device such as a smartcard containing usage data or user's profile, and which provides privacy to users and also programming flexibility.

As to claims 19 and 20, Alexander further discloses where the selected level captures all the user actions and statistical information regarding the user actions (col. 28, line 11-col. 29, line 1+).

Claims 21-23 are met as previously discussed with respect to claims 3-5.

As to claim 34, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses method including a usage history description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed “the usage history description scheme containing information about a user...” is met by Viewer’s Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer’s profile “usage history description scheme” contains information about a user with respect to at least one of audio, image and video based upon interaction “previous usage” of the at least one of the audio, image, and video; where the system selectively defining the content for the profiles such as themes: sports, news, movie, sitcom, etc., “multiple levels of granularity” (col. 29, lines 14-67) and other source of information, such as buying a particular appliance, car, etc., (col. 30, 1-37), note that the user’s profile information can further be directed to a type of sports (baseball, basketball, etc.), movies, news, sitcom, etc.

Alexander fails to explicitly teach where the usage history description scheme is stored on a mobile storage device selectively insertable into a multimedia system.

However, note the **Schnase** reference figures 1 and 6-8, discloses site-specific interest profiling system where usage history description scheme is stored on a smartcard selectively insertable into a multimedia system.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Schnase into the system of Alexander to provide a portable storage device such as a smartcard containing usage data or user’s profile, and which provides privacy to users and also programming flexibility.

Claim 35 is met as previously discussed with respect to claim 29.

Claim 36 is met as previously discussed with respect to claim 30.

As to claims 37 and 38, Alexander further discloses where the content, is used by parents to track children's viewing habits and access to objectionable content (col. 17, lines 13-36)

As to claims 43-44 and 48, Alexander further discloses where the information is processed to determine preferences of the user (col. 28, lines 11-col. 29, line 1+).

7. Claims 28-33 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al. (6,177,931)** in view of **Sahai et al (6,594,699)**.

As to claim 28, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses system including a usage history description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed "the usage history description scheme containing information about a user..." is met by Viewer's Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer's profile "usage history description scheme" contains information about a user with respect to at least one of audio, image and video based upon interaction "previous usage" of the at least one of the audio, image, and video; where the system selectively defining the content for the profiles such as themes: sports, news, movie, sitcom, etc., "multiple levels of granularity" (col. 29, lines 14-67) and other source of information, such as buying a particular appliance, car, etc., (col. 30, 1-37), note that the

user's profile information can further be directed to a type of sports (baseball, basketball, etc.), movies, news, sitcom, etc.

Alexander, fails to explicitly teach where the system permits a user to selectively define the content of the usage description scheme at multiple levels of granularity.

However, note the **Sahai** reference figures 1 discloses a client/server system that permits a user to selectively define the content of the usage description scheme at multiple levels of granularity (col.4, lines 9-40).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Sahai into the system of Alexander and permit the user selectively control the data being received as desired.

As to claim 29, Alexander further discloses where the multiple levels of granularity are defined for multiple users (col. 17, lines 13-36).

As to claim 30, Alexander further discloses where the multiple levels of granularity are used to generate personalized programming (col. 30, line 45-col. 31, line 1+ and col. 32, lines 23-34).

Claims 31-33 are met as previously discussed with respect to claims 3-5.

Claims 46-47 are met as previously discussed with respect to claim 28.

8. Claims 24-27 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6,177,931)** in view of **Juels (2002/0026345)**.

As to claim 24, note the **Alexander et al** figures 1-3, discloses monitoring viewer's interaction with television, video, audio, etc., and external source of

information, to create a viewer's profile, and customizes various presentation based on the viewer's interaction and further discloses a usage history description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

the claimed "the usage history description scheme containing information about a user..." is met by Viewer's Profile or Preferences (col. 28, lines 11-col. 29, line 1+), note that the viewer's profile "usage history description scheme" contains information about a user with respect to at least one of audio, image and video based upon interaction "previous usage" of the at least one of the audio, image, and video (col. 29, lines 14-55); note that the viewer's profile information is data collected concerning, and surrounding, viewer's interactions with the television, EPG (recording and watching functions), Internet, WWW, and any other sources of information and is sent to the Headend of the television distribution for analysis, customizing of the television program, by themes (col. 30, line 45-col. 31, line 8 and lines 25-61).

Alexander fails to explicitly teach where a user's profile, includes data indication whether the user's identity is intended to be revealed to third parties.

However, note **Juels** reference discloses target delivery of informational content with privacy protection, where the user's profile includes data indicating whether the user's identity is intended to be revealed to third parties (page 3, [0035], page 4, [0048-0050], page 7, [0071] and [0075]).

Therefore it would have been obvious to one of ordinary at the time of the invention to incorporate the teaching of Juels into the system Alexander to permit the

user choose portion of his profile may be conceal and provide privacy protections to the users profile information.

Claims 25-27 are met as previously discussed with respect to claims 3-5.

As to claim 45, Alexander further discloses where the information is processed to determine preferences of the user (col. 28, lines 11-col. 29, line 1+).

9. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6,177,931)** in view of **Schnase et al (6,078,928)** as applied to claim 16 above, and further in view of **Sahai et al. (6,594,699)**.

As to claims 17 and 18, Alexander as modified by Schnase, fail to explicitly teach where the level of detail is based, at least in part, on the capabilities of the system and where the selectable level of detail are suitable for interchangeable with other such systems.

However, **Sahai** teaches selecting video, audio and image for a system base on the system capabilities or preferences/specifications and where the selection is suitable for interchangeable with other such systems (col. 2, lines 46-64 and col. 4, lines 9-63).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Sahai into the system to Alexander as modified by Schnase to customize multimedia based on the system capabilities or preferences/specifications and interchanging with other systems and perform intelligent data transfer based on the capabilities and preferences and also provide services to other user devices or systems.

Response to Arguments

10. Applicant's arguments with respect to claims 2-23, 28-38, 41-44 and 46-48 have been considered but are moot in view of the new ground(s) of rejection. The amendment to independent claims 2, 6, 16, 28 and 34 necessitated the new ground(s) of rejection discussed above.

With respect to claims 2-5 rejected under 35 U.S.C. 102(e) as being anticipated by **Alexander et al. (6,177,931)**, Alexander reference still meets the claimed limitations as amended, since TV Display 10 is an Internet enable TV which displays EPG data and TV program in one display mode and Internet data AD window 1-2 in another display mode, a GUI with interactive icon (i) for retrieving Internet related data as discussed above.

With respect to claims 24-27 rejected under 35 U.S.C. 103(a) as being unpatentable over **Alexander et al (6,177,931)** in view of **Juels (2002/0026345)**, applicant argues that there is no suggest in the prior art make the cited combination.

In response Examiner disagrees. Examiner notes applicant arguments, however, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary, nor is it that the claimed invention must be expressly suggested in any one or all the references, but rather the combined teachings of the references that would have suggested to those of ordinary skill in the art. In this case **Alexander** teaches collecting user profiles or preferences to customized or target multimedia services to users based on profiles or preferences. In the same field of endeavor **Juels** teaches a target delivery of informational content with

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privacy protection and as such combining the teaching of Juels with Alexander would be within the knowledge of one skill in the art. Hence the rejection is proper and maintained as discussed above. This office action is made final.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mattaway et al (6,226,678) disclose method and apparatus for dynamically defining data communication utilities.

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.

AS

Annan Q. Shang.


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